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14 [Additional Attorneys and Plaintiffs listed on Signature  
15 Page]

16 UNITED STATES DISTRICT COURT  
17 NORTHERN DISTRICT OF CALIFORNIA  
18 (OAKLAND DIVISION)  
19

20 MEIJER, INC. & MEIJER  
DISTRIBUTION, INC., on behalf of  
21 themselves and all others similarly  
situated,

22 Plaintiffs,

23 v.

24 ABBOTT LABORATORIES,  
25 Defendant.  
26

27 --[caption continues next page]--  
28

Case No. C 07-5985 CW

**OBJECTIONS AND RESPONSES OF  
PLAINTIFFS MEIJER, INC., MEIJER  
DISTRIBUTION, INC., ROCHESTER DRUG  
CO-OPERATIVE, INC., AND LOUISIANA  
WHOLESALE DRUG COMPANY, INC. TO  
ABBOTT LABORATORIES' FIRST SET OF  
REQUESTS FOR THE PRODUCTION OF  
DOCUMENTS AND THINGS TO  
PLAINTIFFS**

**Hon. Claudia Wilken**

1 ROCHESTER DRUG CO-  
2 OPERATIVE, INC., on behalf of itself  
3 and all others similarly situated,

4 Plaintiff,

5 v.

6 ABBOTT LABORATORIES,

7 Defendant.

Case No. C 07-6010 CW

**Hon. Claudia Wilken**

8 LOUISIANA WHOLESALE DRUG  
9 COMPANY, INC., on behalf of itself  
10 and all others similarly situated,

11 Plaintiff,

12 v.

13 ABBOTT LABORATORIES,

14 Defendant.

Case No. C 07-6118 CW

**Hon. Claudia Wilken**

15  
16 **OBJECTIONS AND RESPONSES OF PLAINTIFFS MEIJER, INC., MEIJER**  
17 **DISTRIBUTION, INC., ROCHESTER DRUG CO-OPERATIVE, INC., AND LOUISIANA**  
18 **WHOLESALE DRUG COMPANY, INC. TO ABBOTT LABORATORIES' FIRST SET**  
19 **OF REQUEST FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO**  
20 **PLAINTIFFS**

21 Pursuant to Federal Rules of Civil Procedure 26 and 34 and Rules 26-1, 26-2, and  
22 34-1 of the Local Rules of the United States District Court for the Northern District of California,  
23 and subject to the objections stated below, Plaintiffs Meijer, Inc., Meijer Distribution, Inc.,  
24 Rochester Drug Co-operative, Inc., and Louisiana Wholesale Drug Company, Inc. ("Plaintiffs" or  
25 "Class Representatives") by and through their attorneys, hereby submit these objections and  
26 responses ("Responses") to Abbott Laboratories' First Set of Requests for Production of  
27 Documents and Things to Plaintiffs ("Document Requests" or "Requests"). The following  
28 Responses are based upon facts and information known by Plaintiffs at the time of responding to  
these Document Requests and on the current status of the proceedings.

1 Plaintiffs reserve the right to supplement, modify or amend these Responses in  
2 accordance with the provisions of the Federal Rules of Civil Procedure and in light of relevant  
3 decisions in this case.

4 These Responses are made without in any way waiving or intending to waive, but  
5 to the contrary preserving and intending to preserve:

6 a. all questions as to competency, relevance, materiality, privilege, and  
7 admissibility as evidence for any purpose of any of the documents provided in connection  
8 herewith;

9 b. the right to object on any ground to the use of the documents produced  
10 hereunder or the subject matter thereof at any trial or hearing in this matter, or in any related or  
11 subsequent action or proceeding;

12 c. the right to object on any ground at any time to a demand for further  
13 response or documents; and

14 d. the right at any time to revise, supplement, correct or add to these  
15 Responses.

16 The failure of Plaintiffs to object on a particular ground to a specific Document  
17 Request should in no way be construed to be a waiver of the right to object on additional grounds  
18 or to supplement their objections and responses at a later time after further investigation and/or in  
19 response to clarifications or interpretations provided by the defendant who has served these  
20 Document Requests ("Defendant").

21 Whenever, in response to a Document Request, Plaintiffs agree to provide/produce  
22 documents, such a response does not constitute a representation that such documents exist, but  
23 only that such documents will be produced if they exist, can be located with reasonable diligence,  
24 and are not otherwise protected from disclosure.

25 A response to any Document Request shall not be deemed an admission or  
26 acknowledgment that such request calls for information that is relevant to the subject matter of  
27 this litigation, is authentic, or admissible at any trial thereof.

1 Subject to the foregoing, and subject to the objections set forth below, Plaintiffs  
 2 will produce, at their attorney's office, for inspection and copying, such relevant, non-privileged  
 3 documents as may be responsive to the Document Requests as set forth herein. All documents  
 4 produced will be subject to the operative protective order in effect in this litigation.

### 5 GENERAL OBJECTIONS

6 1. Plaintiffs object to these Document Requests to the extent that they seek  
 7 documents that are protected from disclosure by the attorney-client privilege, the attorney work  
 8 product doctrine, the common interest doctrine, or any other applicable privilege, right, immunity  
 9 or exemption from discovery, whether set forth in the Federal Rules of Civil Procedure, the Local  
 10 Rules of the United States District Court for the Northern District of California, in common law,  
 11 in case law doctrine, or in the Constitutions and other laws of the United States or applicable state  
 12 law (together, "Privilege" or "Privileged"). Any inadvertent disclosure of any Privileged  
 13 information shall not be deemed a waiver or impairment of Plaintiffs' right to assert the  
 14 applicability of any privilege or immunity to the information.

15 2. Plaintiffs object to these Document Requests to the extent that they seek  
 16 production of documents from persons or entities that are not parties to this action and which  
 17 documents are not now and never have been in the possession, custody or control of Plaintiffs.

18 3. Plaintiffs object to these Document Requests to the extent that they seek  
 19 production of documents that do not exist and would have to be created in order to respond to  
 20 such requests.

21 4. Plaintiffs object to these Document Requests to the extent that they seek  
 22 the production of documents relating to any expert or other person or entity retained by Plaintiffs'  
 23 counsel to assist in the preparation of Plaintiffs' case: (a) to the extent any such person or entity  
 24 has not been designated by Plaintiff as a trial witness, on the grounds that such disclosure is  
 25 (i) neither relevant nor reasonably calculated to lead to the discovery of admissible evidence;  
 26 (ii) prejudicial to Plaintiffs' preparation of this case and is in contravention of Rule 26(b)(4)(B) of  
 27 the Federal Rules of Civil Procedure; and/or (iii) would require disclosure of information and  
 28 documents protected from disclosure by the attorney work-product doctrine; and (b) to the extent

1 that any such person or entity has been designated by Plaintiff as a trial witness on the grounds  
2 that such disclosure is premature according to the Scheduling Order entered in this case.

3 5. Plaintiffs object to these Document Requests, including but not limited to,  
4 the Definitions and Instructions set forth in the Document Requests, to the extent that they are  
5 vague, ambiguous, confusing or otherwise incomprehensible, overly broad, individually or  
6 cumulatively unduly burdensome, and harassing. Plaintiffs will respond to these Document  
7 Requests based upon their best, common-sense understanding of what is being requested.

8 6. Plaintiffs object to these Document Requests to the extent they: seek  
9 information which is not relevant to the subject matter involved in the pending action; seek  
10 information which is not reasonably calculated to lead to the discovery of admissible evidence;  
11 are unreasonably cumulative or duplicative; or seek information which is obtainable from some  
12 other source that is more convenient, less burdensome, or less expensive.

13 7. Plaintiffs object to these Document Requests to the extent that they seek  
14 information that is already in the possession, custody or control of, or readily accessible to,  
15 Defendant.

16 8. Plaintiffs object to Defendant's Requests to the extent that they seek to  
17 impose upon Plaintiffs an obligation to review the documents produced by Defendant or others in  
18 this litigation and to produce certain of those documents back to Defendant.

19 9. Plaintiffs object to these Document Requests to the extent that they  
20 constitute premature contention requests.

21 10. Plaintiffs object to these requests to the extent that they exceed the number  
22 of document requests and, to the extent such requests are interrogatories, exceed the number of  
23 interrogatories allowed under the Federal Rules of Civil Procedure and/or the Local Rules.

24 11. Plaintiffs object to these Document Requests to the extent they assume  
25 facts; call for legal conclusions; call for improper lay opinion; or call for speculation or  
26 conjecture.

27 12. Plaintiffs object to these Document Requests to the extent that they call for  
28 discovery of or from unnamed or absent class members of the Proposed Class. Discovery of

1 unnamed or absent members of a proposed class is highly disfavored. "Discovery of unnamed  
2 members of a proposed class requires a demonstration of need." Manual for Complex Litigation  
3 (Fourth) § 21.14 (2004). Further, "[i]f precertification discovery of unnamed class members is  
4 appropriate, the court should consider imposing limits beyond those contemplated by the Federal  
5 Rules of Civil Procedure." *Id.* Plaintiffs accordingly object to these Document Requests as a  
6 "demonstration of need" has not been made, and appropriate limits have not been set by the  
7 Court.

8           13. Plaintiffs object to these requests to the extent they request documents or  
9 information concerning downstream sales and/or the resale of pharmaceutical products below the  
10 manufacturer level, which are not relevant, nor reasonably calculated to lead to the discovery of  
11 admissible evidence. Because Plaintiffs have alleged an overcharge theory of damages and are  
12 not seeking any damages relating to lost profits, any sales, profit, loss, or other "downstream"  
13 information is not relevant to this case. See *Hanover Shoe v. United Shoe Machinery Corp.*, 392  
14 U.S. 481 (1968); *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977); and *Kansas v. UtiliCorp*  
15 *United, Inc.*, 497 U.S. 199 (1990).

16           14. Where two or more Document Requests call or apparently call for the  
17 production of the same documents or category of documents, an objection made to one request is  
18 deemed to be made as to all requests which seek the production of the same documents or  
19 category of documents.

20           15. Plaintiffs object to the definitions and instructions section of Defendant's  
21 Requests to the extent that the definitions and instructions set forth herein exceed the  
22 requirements of the Federal Rules of Civil Procedure, the Local Rules and/or seek to define terms  
23 in a manner other than as normally defined. Without waiving this objection and subject to it,  
24 Plaintiffs will respond to the requests for production in accordance with the Federal Rules of Civil  
25 Procedure, the Local Rules, and the ordinary usage of the English language.

26           16. Plaintiffs object to the definition of "Plaintiffs" and "you" as it calls for  
27 information outside the custody or control of Plaintiffs.  
28

1           17.     Plaintiffs object to the definition of “communication” to the extent that the  
2 definition is vague, ambiguous, unnecessarily broad, and is not calculated to lead to the discovery  
3 of relevant evidence.

4           18.     Plaintiffs object to the definition of “document” to the extent that the  
5 definition is vague, ambiguous, unnecessarily broad, is not calculated to lead to the discovery of  
6 relevant evidence, and is broader than or different from the definition of “document” found in  
7 Fed. R. Civ. P. 34.

8           19.     Plaintiffs object to the attempt to “Definition No. 9” as it is vague,  
9 ambiguous, unnecessarily broad, and calls for information not calculated to lead to the discovery  
10 of admissible evidence.

11           20.     Plaintiffs object to the attempt to “Definition No. 10” as it is vague,  
12 ambiguous, unnecessarily broad, and calls for information not calculated to lead to the discovery  
13 of admissible evidence.

14           21.     Plaintiffs object to the definition of “Abbott Competitors” as it assumes  
15 facts not in evidence, is vague and ambiguous, prejudicial, confusing, misleading, and is not  
16 reasonably calculated to lead to the discovery of admissible evidence in that several corporations  
17 are identified as competitors of Abbott who do not compete in the Boosted Protease Inhibitor  
18 Market or Booster Protease Inhibitor Market, and calls for the production of evidence not relevant  
19 to this litigation.

20           22.     Plaintiffs object to the definitions of “Antiretroviral Drugs” and “ARV  
21 Drugs” as they assume facts not in evidence, are vague and ambiguous, prejudicial, confusing,  
22 misleading, and are not reasonably calculated to lead to the discovery of admissible evidence in  
23 that the definitions are overinclusive and/or underinclusive and identify drugs which are not part  
24 of the relevant market.

25           23.     Plaintiffs object to the definitions of “Non-Nucleoside Reverse  
26 Transcriptase Inhibitors” and “NNRTIs” as they assume facts not in evidence, are vague and  
27 ambiguous, prejudicial, confusing, misleading, and are not reasonably calculated to lead to the  
28



discovery of admissible evidence in that the definitions are overinclusive and/or underinclusive and identify drugs which are not part of the relevant market.

24. Plaintiffs object to the definitions of "Nucleoside/Nucleotide Reverse Transcriptase Inhibitors" and "NRTIs" as they assume facts not in evidence, are vague and ambiguous, prejudicial, confusing, misleading, and are not reasonably calculated to lead to the discovery of admissible evidence in that the definitions are overinclusive and/or underinclusive and identify drugs which are not part of the relevant market.

25. Plaintiffs object to the definitions of "Protease Inhibitors" and "PIs" as they assume facts not in evidence, are vague and ambiguous, prejudicial, confusing, misleading, and are not reasonably calculated to lead to the discovery of admissible evidence in that the definitions are or may be overinclusive and/or underinclusive and identify drugs which are not part of the relevant market.

26. Plaintiffs object to the definition of "Entry Inhibitors" as it assume facts not in evidence, is vague and ambiguous, prejudicial, confusing, misleading, and not reasonably calculated to lead to the discovery of admissible evidence in that the definition is overinclusive and/or underinclusive and identify drugs which are not part of the relevant market.

27. Plaintiffs object to the use of the undefined term "putative class members" as vague, ambiguous, confusing, and misleading.

28. Plaintiffs object to the definition of "reflecting," "referring," "concerning," and "relating to" as overbroad, vague and ambiguous.

29. Each of the foregoing objections ("General Objections") is hereby incorporated in response to each Document Request as though fully set forth therein, whether or not a further specific objection is made with respect to a specific Document Request.

#### **OBJECTIONS AND RESPONSES TO SPECIFIC DOCUMENT REQUESTS**

##### **REQUEST NO. 1:**

All documents concerning the allegations in your Complaint, including (a) documents you used, relied upon or referenced in drafting the Complaint and (b) documents that you believe support your allegations in the Complaint.



**RESPONSE TO REQUEST NO. 1:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Subject to and without waiving the foregoing objections, Plaintiffs direct Defendant to all publicly available documents filed before January 11, 2008 in *Doe 1 et al. v. Abbott Laboratories*, Civil Action No. 4:04-cv-01511-CW (N.D. Cal.) and related actions, to which Defendant is a party and is thus already in possession of all such documents, as well as to any publicly available documents cited in the Complaint. Any remaining documents are protected by the attorney client and work product privileges.

**REQUEST NO. 2:**

All documents you intend to introduce or may rely upon (a) at any hearing regarding your motion for class certification or (b) at trial.

**RESPONSE TO REQUEST NO. 2:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce and/or identify non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, in conjunction with Plaintiffs' filings related to their motion for class certification and/or in advance of any hearing thereon.

**REQUEST NO. 3:**

All personnel and employment history files for any officer, director, or employee identified in your initial disclosures or in response to Interrogatory No. 1.

**RESPONSE TO REQUEST NO. 3:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this request as harassing in that it calls for the production of personal, confidential or privileged information.

1 **REQUEST NO. 4:**

2 All documents evidencing or supporting your allegation that "Meijer is the assignee of the  
3 claims of Frank W. Kerr Co."

4 **RESPONSE TO REQUEST NO. 4:**

5 Subject to and without waiving their general objections, Meijer, Inc. and Meijer  
6 Distribution Inc. will produce non-privileged, responsive documents, to the extent they exist.

7 **REQUEST NO. 5:**

8 All documents received in response to any subpoenas issued in this case.

9 **RESPONSE TO REQUEST NO. 5:**

10 Subject to and without waiving their general objections, Plaintiffs will produce or  
11 otherwise make available documents received by them in response to subpoenas which Plaintiffs  
12 serve in this litigation.

13 **REQUEST NO. 6:**

14 All documents identified in your answers to Abbott's First Set of Interrogatories to  
15 Plaintiffs.

16 **RESPONSE TO REQUEST NO. 6:**

17 In addition to their general objections, Plaintiffs object to this request as premature  
18 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
19 prematurely and/or attorney work product. Subject to and without waiving the foregoing  
20 objections, Plaintiffs will produce non-privileged, responsive documents in their possession,  
21 custody or control that were not produced by Defendant or other parties in this litigation, to the  
22 extent such documents exist, at an appropriate stage in the litigation.

23 **REQUEST NO. 7:**

24 All documents concerning your class action allegations contained in paragraphs 47  
25 through 56 and elsewhere throughout your Complaint.

26 **RESPONSE TO REQUEST NO. 7:**

27 In addition to their general objections, Plaintiffs object to this request as premature  
28 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis

1 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
2 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
3 will produce and/or identify non-privileged, responsive documents in their possession, custody or  
4 control that were not produced by Defendant or other parties in this litigation, to the extent such  
5 documents exist, in conjunction with Plaintiffs' filings related to their motion for class  
6 certification and/or in advance of any hearing thereon.  
7

8 **REQUEST NO. 8:**

9 All documents that you may use to support your proposed class definition.

10 **RESPONSE TO REQUEST NO. 8:**

11 In addition to their general objections, Plaintiffs object to this request as premature  
12 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
13 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
14 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
15 will produce and/or identify non-privileged, responsive documents in their possession, custody or  
16 control that were not produced by Defendant or other parties in this litigation, to the extent such  
17 documents exist, in conjunction with Plaintiffs' filings related to their motion for class  
18 certification and/or in advance of any hearing thereon.

19 **REQUEST NO. 9:**

20 All documents relating to, or used in, the search or identification of the putative class  
21 members.  
22  
23  
24  
25  
26  
27  
28

**RESPONSE TO REQUEST NO. 9:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to the extent this request calls for documents subject to the attorney-client privilege. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce and/or identify non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, in conjunction with Plaintiffs' filings related to their motion for class certification and/or in advance of any hearing thereon.

**REQUEST NO. 10:**

All documents sufficient to identify the names and addresses of the putative class members.

**RESPONSE TO REQUEST NO. 10:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request to the extent it calls for discovery from absent class members and/or documents not in the possession, custody, or control of Plaintiffs. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce and/or identify non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, in conjunction with Plaintiffs' filings related to their motion for class certification and/or in advance of any hearing thereon.

**REQUEST NO. 11:**

All documents related to your allegations that this action may be maintained or asserted as a class action, including documents supporting your allegations that (i) the class is "so numerous that joinder is impracticable," (ii) all relevant "[q]uestions of law and fact are common to the

1 members of the Class,” (iii) “Plaintiffs’ claims are typical of the claims of those of the Class,” and  
2 (iv) “Plaintiffs will fairly and adequately protect and represent the interests of the Class.”

3 **RESPONSE TO REQUEST NO. 11:**

4 In addition to their general objections, Plaintiffs object to this request as premature  
5 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
6 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
7 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
8 will produce and/or identify non-privileged, responsive documents in their possession, custody or  
9 control that were not produced by Defendant or other parties in this litigation, to the extent such  
10 documents exist, in conjunction with Plaintiffs’ filings related to their motion for class  
11 certification and/or in advance of any hearing thereon.

12 **REQUEST NO. 12:**

13 All documents supporting your allegation that “Class action treatment” would avoid “the  
14 unnecessary duplication of effort and expense that numerous individual actions would engender,”  
15 including any documents relating to potential litigation against Abbott by any potential class  
16 member.

17 **RESPONSE TO REQUEST NO. 12:**

18 In addition to their general objections, Plaintiffs object to this request as premature  
19 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
20 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
21 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
22 will produce and/or identify non-privileged, responsive documents in their possession, custody or  
23 control that were not produced by Defendant or other parties in this litigation, to the extent such  
24 documents exist, in conjunction with Plaintiffs’ filings related to their motion for class  
25 certification and/or in advance of any hearing thereon.

26 **REQUEST NO. 13:**

27 All documents concerning your allegations, contained in paragraphs 42, 61, 67, 71 and  
28 elsewhere throughout your Complaint, that you have been injured in your businesses and

1 properties by reason of Abbott's conduct.

2 **RESPONSE TO REQUEST NO. 13:**

3 In addition to their general objections, Plaintiffs object to this request as premature  
4 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
5 prematurely and/or attorney work product. Subject to and without waiving the foregoing  
6 objections, Plaintiffs will produce non-privileged, responsive documents in their possession,  
7 custody or control that were not produced by Defendant or other parties in this litigation, to the  
8 extent such documents exist, at an appropriate stage in the litigation.

9 **REQUEST NO. 14:**

10 All documents concerning your allegations, contained in paragraphs 42, 61, 67, 71 and  
11 elsewhere throughout your Complaint, that the putative class members have been injured in their  
12 businesses and properties by reason of Abbott's conduct.

13 **RESPONSE TO REQUEST NO. 14:**

14 In addition to their general objections, Plaintiffs object to this request as premature  
15 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
16 prematurely and/or attorney work product. Plaintiffs also object to this request to the extent it  
17 calls for discovery from absent class members and/or documents not in the possession, custody,  
18 or control of Plaintiffs. Plaintiffs also object to this request as vague, ambiguous, and overbroad.  
19 Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged,  
20 responsive documents in their possession, custody or control that were not produced by  
21 Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate  
22 stage in the litigation.

23 **REQUEST NO. 15:**

24 All documents concerning the price each putative class member paid for ARV Drugs,  
25 including, but not limited to, Norvir, Kaletra, Lexiva, Agenerase, and Reyataz.

26 **RESPONSE TO REQUEST NO. 15:**

27 In addition to their general objections, Plaintiffs object to this request on the grounds that  
28 it is vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible

evidence. Plaintiffs specifically object to this request as overbroad in that it relates to drugs outside of the relevant market. Plaintiffs specifically object to this request as unduly burdensome, harassing, and not calculated to lead to the discovery of admissible evidence to the extent it seeks the production of information from the Class Representatives relating to drugs other than Norvir and Kaletra, because, among other reasons, data of this kind from individual market actors is not relevant to any claim or defense in this matter and because usable market-wide information is available only from other sources, including Defendant's own documents and transactional sales data, market wide sales and pricing data from other manufacturers, and publicly and commercially available third-party databases. Plaintiffs also object to this request on the grounds that it prematurely calls for expert analysis and/or testimony. Plaintiffs also object to this request to the extent it calls for discovery from absent class members and/or documents not in the possession, custody, or control of Plaintiffs. Subject to and without waiving such objections, Plaintiffs will produce responsive, non-privileged documents sufficient to show the prices that the proposed Class Representatives paid for Norvir and Kaletra.

**REQUEST NO. 16:**

All documents showing the terms and conditions of each putative class member's purchase of such ARV Drugs.

**RESPONSE TO REQUEST NO. 16:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this request to the extent that it calls for discovery from absent class members and/or documents not in the possession, custody, or control of Plaintiffs. Plaintiffs specifically object to this request as overbroad in that it relates to drugs outside of the relevant market. Plaintiffs also object to this request as unduly burdensome, harassing, and not calculated to lead to the discovery of admissible evidence to the extent it seeks the production of information from the Class Representatives relating to drugs other than Norvir and Kaletra, because, among other reasons, data of this kind from individual market actors is not relevant to any claim or defense in this matter and because usable market-wide information is available only from other



1 sources, including Defendant's own documents and transactional sales data, market wide sales  
2 and pricing data from other manufacturers, and publicly and commercially available third-party  
3 databases. Subject to and without waiving such objections, Plaintiffs will produce responsive,  
4 non-privileged documents sufficient to show the terms and conditions of the proposed Class  
5 Representatives' purchases of Norvir and Kaletra.

6 **REQUEST NO. 17:**

7 All documents concerning the amount of any payments, co-payments, or reimbursements  
8 received by, and any discounts given or rebates paid by, each putative class member in  
9 connection with the sale of such ARV Drugs.

10 **RESPONSE TO REQUEST NO. 17:**

11 In addition to their general objections, Plaintiffs object to this request on the grounds that  
12 it is vague and ambiguous. Plaintiffs specifically object to this request as overbroad in that it  
13 relates to drugs outside of the relevant market. Plaintiffs also object to this request as unduly  
14 burdensome, harassing, and not calculated to lead to the discovery of admissible evidence to the  
15 extent it seeks the production of information from the Class Representatives relating to drugs  
16 other than Norvir and Kaletra, because, among other reasons, data of this kind from individual  
17 market actors is not relevant to any claim or defense in this matter and because usable market-  
18 wide information is available only from other sources, including Defendant's own documents and  
19 transactional sales data, market wide sales and pricing data from other manufacturers, and  
20 publicly and commercially available third-party databases. Plaintiffs also object to this request to  
21 the extent it calls for discovery from absent class members and/or documents not in the  
22 possession, custody, or control of Plaintiffs. Furthermore, this request is objectionable on the  
23 grounds that it requests documents or information concerning the resale of pharmaceutical  
24 products below the manufacturer level, which are not relevant, nor reasonably calculated to lead  
25 to the discovery of admissible evidence. Because Plaintiffs have alleged an overcharge theory of  
26 damages and are not seeking any damages relating to lost profits, any sales, profit, loss, or other  
27 "downstream" information is not relevant to this case.

1 **REQUEST NO. 18:**

2 All documents sufficient to show the organizational structure and the names of employees  
3 of the group, department, office, or division responsible for each putative class member's  
4 purchasing and pricing decisions concerning such ARV Drugs.

5 **RESPONSE TO REQUEST NO. 18:**

6 In addition to their general objections, Plaintiffs object to this request as overbroad in that  
7 it relates to drugs outside of the relevant market. Plaintiffs also object to this request to the extent  
8 it calls for discovery from absent class members and/or documents not in the possession, custody,  
9 or control of Plaintiffs. Subject to and without waiving such objections, Plaintiffs will produce  
10 responsive, non-privileged documents in the possession, custody or control of the proposed Class  
11 Representatives for the years 2003 to the present, to the extent such documents exist.

12 **REQUEST NO. 19:**

13 All documents discussing the price or cost of ARV Drugs since January 2003.

14 **RESPONSE TO REQUEST NO. 19:**

15 In addition to their general objections, Plaintiffs object to this request as unduly  
16 burdensome and overbroad as it relates to drugs outside of the relevant market. Plaintiffs also  
17 object to this request as unduly burdensome, harassing, and not calculated to lead to the discovery  
18 of admissible evidence to the extent it seeks the production of information from the Class  
19 Representatives relating to drugs other than Norvir and Kaletra, because, among other reasons,  
20 data of this kind from individual market actors is not relevant to any claim or defense in this  
21 matter and because usable market-wide information is available only from other sources,  
22 including Defendant's own documents and transactional sales data, market wide sales and pricing  
23 data from other manufacturers, and publicly and commercially available third-party databases.  
24 Plaintiffs further object to the term "price or cost" as vague. This request is also objectionable on  
25 the grounds that it requests documents or information concerning the resale of pharmaceutical  
26 products below the manufacturer level, which are not relevant, nor reasonably calculated to lead  
27 to the discovery of admissible evidence. Because Plaintiffs have alleged an overcharge theory of  
28 damages and are not seeking any damages relating to lost profits, any sales, profit, loss, or other

1 “downstream” information is not relevant to this case. Subject to and without waiving such  
2 objections, Plaintiffs will produce responsive documents sufficient to show the proposed Class  
3 Representatives’ purchase price of Norvir and Kaletra during the relevant time frame.

4 **REQUEST NO. 20:**

5 All documents that substantiate or relate in any way to any damages you allegedly  
6 suffered because of Abbott’s acts or omissions and for which you are seeking recovery in this  
7 action.

8 **RESPONSE TO REQUEST NO. 20:**

9 In addition to their general objections, Plaintiffs object to this request as premature  
10 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
11 prematurely and/or attorney work product. Subject to and without waving the foregoing  
12 objections, Plaintiffs will produce non-privileged, responsive documents in their possession,  
13 custody or control that were not produced by Defendant or other parties in this litigation, to the  
14 extent such documents exist, at an appropriate stage in the litigation.

15 **REQUEST NO. 21:**

16 All documents that substantiate or relate in any way to any damages that other Putative  
17 Class members allegedly suffered because of Abbott’s acts or omissions and for which you are  
18 seeking recovery in this action.

19 **RESPONSE TO REQUEST NO. 21:**

20 In addition to their general objections, Plaintiffs object to this request as premature  
21 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
22 prematurely and/or attorney work product. Plaintiffs also object to this request to the extent it  
23 calls for discovery from absent class members and/or documents not in the possession, custody,  
24 or control of Plaintiffs. Plaintiffs also object to this request as vague, ambiguous, and overbroad.  
25 Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged,  
26 responsive documents in their possession, custody or control that were not produced by  
27 Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate  
28 stage in the litigation.

**REQUEST NO. 22:**

All documents concerning patients or individual consumers who stopped buying Norvir and a PI manufactured and/or marketed by an Abbott Competitor and started buying or were forced to buy Kaletra after December 3, 2003 as a result, in whole or in part, of the Norvir price increase.

**RESPONSE TO REQUEST NO. 22:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is vague, ambiguous, overbroad, compound, unduly burdensome and calls for documents equally accessible to Defendant and is thus harassing. Plaintiffs further object to this request on the grounds that it prematurely calls for expert analysis and/or testimony. Plaintiffs also object to this request to the extent it calls for patient or consumer specific information that is protected from disclosure by state and federal privacy laws, including but not limited to the Health Insurance Portability and Accountability Act.

**REQUEST NO. 23:**

All documents concerning physicians who stopped prescribing Norvir and a PI manufactured and/or marketed by an Abbott Competitor and started prescribing or were forced to prescribe Kaletra after December 3, 2003 as a result, in whole or in part, of the Norvir price increase.

**RESPONSE TO REQUEST NO. 23:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is vague, ambiguous, overbroad, compound, unduly burdensome and calls for documents equally accessible to Defendant and is thus harassing. Plaintiffs also object to this request on the grounds that it calls for privileged attorney-client communications and attorney work product. Plaintiffs also object to this request on the grounds that it prematurely calls for expert analysis and/or testimony. Subject to and without waiving the foregoing objections, Plaintiffs will produce responsive, non-privileged documents, if any, in the possession, custody or control of the proposed Class Representatives.

**REQUEST NO. 24:**

All documents concerning any discounts or rebates provided by each putative class member to patients or individuals who have been prescribed ARV drugs, and any donations or contributions made by each putative class member to charitable or other organizations providing services to patients or individuals who have been prescribed ARV drugs.

**RESPONSE TO REQUEST NO. 24:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is ambiguous, compound, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to the terms “donations or contributions,” and “charitable or other organizations” as vague. Plaintiffs specifically object to this request as overbroad to the extent it encompasses drugs outside of the relevant market. Plaintiffs also object to this request insofar as it seeks improper and legally irrelevant downstream discovery. Plaintiffs also object to this request to the extent it calls for discovery from absent class members and/or documents not in the possession, custody, or control of Plaintiffs. This request is also objectionable on the grounds that it requests documents or information concerning the resale of pharmaceutical products below the manufacturer level, which are not relevant, nor reasonably calculated to lead to the discovery of admissible evidence. Because Plaintiffs have alleged an overcharge theory of damages and are not seeking any damages relating to lost profits, any sales, profit, loss, or other “downstream” information is not relevant to this case.

**REQUEST NO. 25:**

All documents reflecting any additional costs incurred, by each putative class member or by the putative class as a whole, as a result or consequence of the Norvir price increase on December 3, 2003.

**RESPONSE TO REQUEST NO. 25:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is vague, ambiguous and overbroad, Plaintiffs also object to this request on the grounds that it calls for privileged attorney-client communications and attorney work product. Plaintiffs also object to this request on the grounds that it prematurely calls for expert analysis and/or testimony.

1 Plaintiffs also object to this request to the extent it calls for discovery from absent class members  
2 and/or documents not in the possession, custody, or control of Plaintiffs. This request is also  
3 objectionable on the grounds that it requests documents or information concerning the resale of  
4 pharmaceutical products below the manufacturer level, which are not relevant, nor reasonably  
5 calculated to lead to the discovery of admissible evidence. Because Plaintiffs have alleged an  
6 overcharge theory of damages and are not seeking any damages relating to lost profits, any sales,  
7 profit, loss, or other "downstream" information is not relevant to this case.

8 **REQUEST NO. 26:**

9 All documents reflecting communications concerning the increase in the price of Norvir.

10 **RESPONSE TO REQUEST NO. 26:**

11 In addition to their general objections, Plaintiffs object to this request as vague,  
12 ambiguous and overbroad. Plaintiffs specifically object to this request to the extent it does not  
13 identify between whom the request seeks communications. Subject to and without waiving  
14 Plaintiffs' objections, Plaintiffs will produce responsive, non-privileged documents in the  
15 possession, custody or control of the proposed Class Representatives, if any, excluding any  
16 documents relating to Plaintiffs' sales thereof.

17 **REQUEST NO. 27:**

18 All documents concerning your allegations, contained throughout paragraphs 43 through  
19 46 and elsewhere throughout your Complaint, that the relevant product markets are the "Boosting  
20 Market" and "Boosted Market" (as defined in your Complaint), that the "Boosting Market"  
21 consists of Norvir alone, and that the "Boosted Market" consists of Kaletra and a number of non-  
22 Abbott PIs.

23 **RESPONSE TO REQUEST NO. 27:**

24 In addition to their general objections, Plaintiffs object to this request as premature  
25 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
26 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
27 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
28 will produce non-privileged, responsive documents in their possession, custody or control that



1 were not produced by Defendant or other parties in this litigation, to the extent such documents  
2 exist, at an appropriate stage in the litigation.

3 **REQUEST NO. 28:**

4 All documents discussing or describing products that compete with, are substitutes for, or  
5 can be prescribed in lieu of, Norvir and/or Kaletra.

6 **RESPONSE TO REQUEST NO. 28:**

7 In addition to their general objections, Plaintiffs object to this request as premature  
8 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
9 prematurely and/or attorney work product. Plaintiffs also object to this request on the grounds  
10 that it is vague, ambiguous, overbroad, compound and unduly burdensome. Plaintiffs specifically  
11 object to the terms "compete with" and "are substitutes for" as vague, ambiguous, and  
12 misleading. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-  
13 privileged, responsive documents in their possession, custody or control that were not produced  
14 by Defendant or other parties in this litigation, to the extent such documents exist, at an  
15 appropriate stage in the litigation.

16 **REQUEST NO. 29:**

17 All documents discussing or identifying the manufacturers and/or distributors of ARV  
18 Drugs from whom each putative class member purchased or considered purchasing such drugs.

19 **RESPONSE TO REQUEST NO. 29:**

20 In addition to their general objections, Plaintiffs object to this request on the grounds that  
21 it is vague, ambiguous, overbroad, and compound. Plaintiffs specifically object to this request as  
22 overbroad to the extent it relates to drugs outside of the relevant market. Plaintiffs also object to  
23 this request as unduly burdensome, harassing, and not calculated to lead to the discovery of  
24 admissible evidence to the extent it seeks the production of information from the Class  
25 Representatives relating to drugs other than Norvir and Kaletra, because, among other reasons,  
26 data of this kind from individual market actors is not relevant to any claim or defense in this  
27 matter and because usable market-wide information is available only from other sources,  
28 including Defendant's own documents and transactional sales data, market wide sales and pricing



1 data from other manufacturers, and publicly and commercially available third-party databases.  
2 Plaintiffs also object to this request to the extent it calls for discovery from absent class members  
3 and/or documents not in the possession, custody, or control of Plaintiffs. Subject to and without  
4 waiving Plaintiffs' objections, Plaintiffs will produce responsive, non-privileged documents  
5 sufficient to show the identity of the manufacturers or distributors of Norvir and Kaletra which  
6 each proposed Class Representative relies upon in asserting its claims.

7 **REQUEST NO. 30:**

8 All documents concerning Plaintiffs' decisions to purchase, sell, carry, or dispense or not  
9 to purchase, sell, carry, or dispense any ARV Drug.

10 **RESPONSE TO REQUEST NO. 30:**

11 In addition to their general objections, Plaintiffs object to this request as overbroad to the  
12 extent it relates to drugs outside of the relevant market. This request is also objectionable on the  
13 grounds that it requests documents or information concerning the resale of pharmaceutical  
14 products below the manufacturer level, which are not relevant, nor reasonably calculated to lead  
15 to the discovery of admissible evidence. Because Plaintiffs have alleged an overcharge theory of  
16 damages and are not seeking any damages relating to lost profits, any sales, profit, loss, or other  
17 "downstream" information is not relevant to this case

18 **REQUEST NO. 31:**

19 All scientific or journal articles related to the efficacy, benefits, or side effects of ARV  
20 drugs.

21 **RESPONSE TO REQUEST NO. 31:**

22 In addition to their general objections, Plaintiffs object to this request as it calls for  
23 documents equally accessible to Defendant, including documents in the public domain, and is  
24 thus harassing. Plaintiffs also object to this request on the grounds that it prematurely calls for  
25 expert analysis and/or testimony. Plaintiffs further object to this request as overbroad to the  
26 extent it relates to drugs outside of the relevant market. Subject to the foregoing objections,  
27 Plaintiffs will produce responsive, non-privileged documents in the possession, custody or control  
28 of the proposed Class Representatives as they relate to Norvir or Kaletra.

**REQUEST NO. 32:**

All documents you may use to support your allegation that "Kaletra has significant side effects."

**RESPONSE TO REQUEST NO. 32:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Plaintiffs object to this request as it calls for documents equally accessible to Defendant, including documents in the public domain, and is thus harassing. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate stage in the litigation.

**REQUEST NO. 33:**

All documents relating to the safety, efficacy, or convenience of use by patients of any ARV Drug, or relating to the relative safety, efficacy, or convenience of any such drugs.

**RESPONSE TO REQUEST NO. 33:**

In addition to their general objections, Plaintiffs object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs further object to this request on the grounds that it is vague, ambiguous, compound, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence, and calls for documents equally accessible to Defendant and is thus harassing. Plaintiffs specifically object to this request as overbroad to the extent it relates to drugs outside of the relevant market.

**REQUEST NO. 34:**

All documents relating to the market shares and potential market shares of the products in the Boosted Market and the Boosting Market.

**RESPONSE TO REQUEST NO. 34:**

In addition to their general objections, Plaintiffs object to this request as premature

1 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
2 prematurely and/or attorney work product. Plaintiffs object to this request on the grounds that it  
3 is vague, ambiguous, overbroad, compound, unduly burdensome, and is not reasonably calculated  
4 to lead to the discovery of admissible evidence, and calls for documents equally accessible to  
5 Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged,  
6 responsive documents in their possession, custody or control that were not produced by  
7 Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate  
8 stage in the litigation.

9 **REQUEST NO. 35:**

10 All documents related to the sales and projected sales figures of ARV Drugs, including  
11 documents you may use to support your alleged cumulative and projected sales figures for  
12 Kaletra, as stated in paragraphs 22-23 of your Complaint.

13 **RESPONSE TO REQUEST NO. 35:**

14 In addition to their general objections, Plaintiffs object to this request as premature  
15 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
16 prematurely and/or attorney work product. Plaintiffs object to this request vague, ambiguous, as  
17 well as overbroad to the extent it calls for documents related to drugs outside of the relevant  
18 market. This request is also objectionable on the grounds that it requests documents or  
19 information concerning the resale of pharmaceutical products below the manufacturer level,  
20 which are not relevant, nor reasonably calculated to lead to the discovery of admissible evidence.  
21 Because Plaintiffs have alleged an overcharge theory of damages and are not seeking any  
22 damages relating to lost profits, any sales, profit, loss, or other "downstream" information is not  
23 relevant to this case. Subject to and without waiving the foregoing objections, Plaintiffs will  
24 produce non-privileged, responsive documents in their possession, custody or control that were  
25 not produced by Defendant or other parties in this litigation, to the extent such documents exist,  
26 at an appropriate stage in the litigation.

27 **REQUEST NO. 36:**

28 All documents that you may use to support your allegation that Kaletra prescriptions

1 "began to decline" by the October 2003.

2 **RESPONSE TO REQUEST NO. 36:**

3 In addition to their general objections, Plaintiffs object to this request as premature  
4 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
5 prematurely and/or attorney work product. Plaintiffs also object to this request as overbroad.  
6 Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged,  
7 responsive documents in their possession, custody or control that were not produced by  
8 Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate  
9 stage in the litigation.

10 **REQUEST NO. 37:**

11 All documents that you may use to support your allegation in paragraph 23 of your  
12 Complaint that "[b]eginning in the second half of 2003, both Reyataz and Lexiva began to make  
13 steady inroads into Kaletra's share of the Boosted Market."

14 **RESPONSE TO REQUEST NO. 37:**

15 In addition to their general objections, Plaintiffs object to this request as premature  
16 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
17 prematurely and/or attorney work product. Plaintiffs also object to this request as overbroad.  
18 Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged,  
19 responsive documents in their possession, custody or control that were not produced by  
20 Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate  
21 stage in the litigation.

22 **REQUEST NO. 38:**

23 All documents sufficient to show sales by Plaintiffs of any ARV Drugs, by dosage and  
24 delivery, since January 2003.

25 **RESPONSE TO REQUEST NO. 38:**

26 In addition to their general objections, Plaintiffs object to this request as vague,  
27 ambiguous, as well as overbroad to the extent it relates to drugs outside of the relevant market.  
28 This request is also objectionable on the grounds that it requests documents or information

1 concerning the resale of pharmaceutical products below the manufacturer level, which are not  
2 relevant, nor reasonably calculated to lead to the discovery of admissible evidence. Because  
3 Plaintiffs have alleged an overcharge theory of damages and are not seeking any damages relating  
4 to lost profits, any sales, profit, loss, or other "downstream" information is not relevant to this  
5 case.

6 **REQUEST NO. 39:**

7 All documents concerning your allegations, contained in paragraphs 19 through 42 and  
8 elsewhere throughout your Complaint, that Abbott engaged in anticompetitive conduct.

9 **RESPONSE TO REQUEST NO. 39:**

10 In addition to their general objections, Plaintiffs object to this request as premature  
11 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
12 prematurely and/or attorney work product. Plaintiffs also object to this request on the grounds  
13 that it is vague, ambiguous, overbroad, compound, unduly burdensome, and is not reasonably  
14 calculated to lead to the discovery of admissible evidence. Plaintiffs further object to the term  
15 "engaged in anticompetitive conduct" as vague, ambiguous, and overly broad. Subject to and  
16 without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive  
17 documents in their possession, custody or control that were not produced by Defendant or other  
18 parties in this litigation, to the extent such documents exist, at an appropriate stage in the  
19 litigation.

20 **REQUEST NO. 40:**

21 All documents supporting your allegation that Abbott engaged in predatory or  
22 anticompetitive activities.

23 **RESPONSE TO REQUEST NO. 40:**

24 In addition to their general objections, Plaintiffs object to this request as premature  
25 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
26 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
27 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
28 will produce non-privileged, responsive documents in their possession, custody or control that

1 were not produced by Defendant or other parties in this litigation, to the extent such documents  
2 exist, at an appropriate stage in the litigation.

3 **REQUEST NO. 41:**

4 All documents supporting your allegation in paragraph 20 of the Complaint that "Abbott  
5 came to realize that Kaletra's domination of the Boosted Market would soon be challenged by  
6 new Boosted-PIs that were then expected to be coming to market imminently."

7 **RESPONSE TO REQUEST NO. 41:**

8 In addition to their general objections, Plaintiffs object to this request as premature  
9 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
10 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
11 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
12 will produce non-privileged, responsive documents in their possession, custody or control that  
13 were not produced by Defendant or other parties in this litigation, to the extent such documents  
14 exist, at an appropriate stage in the litigation.

15 **REQUEST NO. 42:**

16 All documents supporting your allegation in paragraph 21 of the Complaint that "[d]uring  
17 2002 (or earlier), Abbott became increasingly concerned about the competitive threat to Kaletra  
18 posed by soon-to-be-introduced Boosted-PIs, and began to formulate plans to thwart the impact  
19 on Kaletra of those new products."  
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28

**RESPONSE TO REQUEST NO. 42:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate stage in the litigation.

**REQUEST NO. 43:**

All documents you may rely on to support your allegation in paragraph 33 of your Complaint that "internal Abbott documents state Abbott's intentions: the huge price increase for the PI-Boosting drug, Norvir, could be effectively leveraged to insulate Kaletra from competition in the separate Boosted Market."

**RESPONSE TO REQUEST NO. 43:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate stage in the litigation.

**REQUEST NO. 44:**

All documents you may rely on to support your allegation in paragraph 36 of your Complaint that "in reliance on the expectation that Abbott would act in good-faith, and because Abbott concealed its strategy to reduce Norvir's availability and/or dramatically raise its prices, GSK and other PI manufacturers materially delayed developing, testing, and/or launching other potential Boosted-PIs that could be effective with substantially less Norvir (and thus be less susceptible to impairment by a Norvir price increase) or could be used with another PI-Boosting



1 drug entirely, *i.e.*, not Norvir.”

2 **RESPONSE TO REQUEST NO. 44:**

3 In addition to their general objections, Plaintiffs object to this request as premature  
4 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
5 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
6 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
7 will produce non-privileged, responsive documents in their possession, custody or control that  
8 were not produced by Defendant or other parties in this litigation, to the extent such documents  
9 exist, at an appropriate stage in the litigation.

10 **REQUEST NO. 45:**

11 All documents you may rely on to support your allegation in paragraph 37 of the  
12 Complaint that “[h]ad GSK and other competitors known that Abbott was planning to  
13 substantially reduce Norvir’s availability (either by raising its prices to prohibitive levels or  
14 pulling it from the market entirely), GSK and other competitors would not have delayed or  
15 postponed efforts to develop alternative Boosted-PI drugs that did not depend upon using 200 mg  
16 of the Norvir product as a PI-Boosting drug.”

17 **RESPONSE TO REQUEST NO. 45:**

18 In addition to their general objections, Plaintiffs object to this request as premature  
19 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
20 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
21 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
22 will produce non-privileged, responsive documents in their possession, custody or control that  
23 were not produced by Defendant or other parties in this litigation, to the extent such documents  
24 exist, at an appropriate stage in the litigation.

25 **REQUEST NO. 46:**

26 All documents discussing the availability of Norvir or the ability of any putative class  
27 member to obtain supplies of Norvir, including, but not limited to, any supply contracts or  
28 agreements for Norvir between a putative class member and Abbott.

**RESPONSE TO REQUEST NO. 46:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is vague, ambiguous, overbroad, compound, unduly burdensome, is not reasonably calculated to lead to the discovery of admissible evidence, and calls for documents equally accessible to Defendant and is thus harassing. Plaintiffs also object to this request to the extent it calls for discovery from absent class members and/or documents not in the possession, custody, or control of Plaintiffs. Subject to and without waiving these objections, Plaintiffs will produce responsive, non-privileged documents from the files of the proposed Class Representatives, if any, relating to Norvir and Kaletra.

**REQUEST NO. 47:**

All documents relating to whether Abbott sells Norvir, Kaletra, or any component of Norvir or Kaletra at below any measure of cost (e.g. average total costs, average variable costs, etc.).

**RESPONSE TO REQUEST NO. 47:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Plaintiffs object to the terms "any measure of cost," "average total costs" and "average variable costs" as vague and ambiguous. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate stage in the litigation.

**REQUEST NO. 48:**

All documents you may rely on to support your allegation in paragraph 41 of your Complaint that "[o]n information and belief: (a) if the penalty a purchaser would pay on the required dosage of Norvir for buying a Boosted-PI from a supplier other than Abbott were subtracted from the imputed price of the Boosted-PI portion of Kaletra, then the resulting price would be below Abbott's average variable costs relating to the Boosted-PI portion or Kaletra and

(b) if Abbott had to pay its own market price for the ritonavir/Norvir that goes into Kaeltra, Abbott's selling Kaeltra at its current market price would not be profitable."

**RESPONSE TO REQUEST NO. 48:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate stage in the litigation.

**REQUEST NO. 49:**

All communications by each putative class member with federal, state, or local government agencies (*e.g.* attorneys general's offices, FTC, NIH, FDA, DHHS, DOJ), employees, or elected officials (*e.g.* members of Congress or state legislatures) concerning Abbott or the pricing of Norvir or Kaeltra.

**RESPONSE TO REQUEST NO. 49:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is vague, ambiguous, overbroad, compound, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this request as overbroad insofar as it calls for communications concerning Abbott without further qualification. Plaintiffs also object to this request on the grounds that it calls for privileged attorney-client communications and attorney work product, and any privileges applicable to communications with the government. Plaintiffs also object to this request to the extent it calls for discovery from absent class members and/or documents not in the possession, custody, or control of Plaintiffs.

**REQUEST NO. 50:**

All communications by each putative class member with any television or newspaper reporters or employees concerning Abbott or the pricing of Norvir.

**RESPONSE TO REQUEST NO. 50:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is vague, ambiguous, overbroad, compound, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this request on the grounds that it calls for privileged attorney-client communications and attorney work product, and any privileges applicable to communications with the government. Plaintiffs also object to this request to the extent it calls for discovery from absent class members and/or documents not in the possession, custody, or control of Plaintiffs. Plaintiffs also object to this request as overbroad insofar as it calls for communications concerning Abbott without further qualification. Subject to and without waiving these objections, Plaintiffs will produce responsive, non-privileged documents reflecting communications between proposed Class Representatives and television or newspaper reporters related to the Plaintiffs' purchase price of Norvir or Kaletra.

**REQUEST NO. 51:**

To the extent not covered by a more specific request, all correspondence with Abbott concerning Norvir or Kaletra.

**RESPONSE TO REQUEST NO. 51:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is vague, ambiguous, overbroad, compound, unduly burdensome, is not reasonably calculated to lead to the discovery of admissible evidence, and calls for documents equally accessible to Defendant and is thus harassing. Plaintiffs also object to the term "correspondence with Abbott" as vague and ambiguous in failing to define with whom Abbott corresponded. Subject to and without waiving these objections, Plaintiffs will produce responsive, non-privileged correspondence between proposed Class Representatives and Abbott related to Norvir or Kaletra above the transactional level, excluding Plaintiffs' sales thereof.

**REQUEST NO. 52:**

To the extent not covered by a more specific request, all correspondence with any third-party concerning Norvir or Kaletra.

**RESPONSE TO REQUEST NO. 52:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is vague, ambiguous, overbroad, compound, unduly burdensome, is not reasonably calculated to lead to the discovery of admissible evidence, and is harassing. Plaintiffs also object to this request to the extent it calls for discovery from absent class members and/or documents not in the possession, custody or control of Plaintiffs. Furthermore, this request is objectionable on the grounds that it requests documents or information concerning the resale of pharmaceutical products below the manufacturer level, which are not relevant, nor reasonably calculated to lead to the discovery of admissible evidence. Because Plaintiffs have alleged an overcharge theory of damages and are not seeking any damages relating to lost profits, any sales, profit, loss, or other “downstream” information is not relevant to this case. Subject to and without waiving these objections, Plaintiffs will produce, non-privileged responsive correspondence between the proposed Class Representatives and any third-party related to Norvir or Kaletra above the transactional level, excluding Plaintiffs’ sales thereof.

**REQUEST NO. 53:**

All documents concerning your allegations, contained in paragraphs 57 through 67 and elsewhere throughout your Complaint, that Abbott has monopolized or attempted to monopolize the “Boosted Market,” as defined in your Complaint.

**RESPONSE TO REQUEST NO. 53:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate stage in the litigation.

**REQUEST NO. 54:**

All documents you may rely on to support your allegation that “Abbott has willfully

1 maintained its monopoly power in the Boosted Market through exclusionary and anticompetitive  
2 means.”

3 **RESPONSE TO REQUEST NO. 54:**

4 In addition to their general objections, Plaintiffs object to this request as premature  
5 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
6 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
7 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
8 will produce non-privileged, responsive documents in their possession, custody or control that  
9 were not produced by Defendant or other parties in this litigation, to the extent such documents  
10 exist, at an appropriate stage in the litigation.

11 **REQUEST NO. 55:**

12 All documents you may rely on to support your allegation that Abbott has had “a  
13 dangerous probability of achieving monopoly power in the Boosted Market.”

14 **RESPONSE TO REQUEST NO. 55:**

15 In addition to their general objections, Plaintiffs object to this request as premature  
16 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
17 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
18 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
19 will produce non-privileged, responsive documents in their possession, custody or control that  
20 were not produced by Defendant or other parties in this litigation, to the extent such documents  
21 exist, at an appropriate stage in the litigation.

22 **REQUEST NO. 56:**

23 All documents you may rely on to support your allegation that “Abbott has had the  
24 specific intent to monopolize the Boosted Market.”

25 **RESPONSE TO REQUEST NO. 56:**

26 In addition to their general objections, Plaintiffs object to this request as premature  
27 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
28 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,

1 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
2 will produce non-privileged, responsive documents in their possession, custody or control that  
3 were not produced by Defendant or other parties in this litigation, to the extent such documents  
4 exist, at an appropriate stage in the litigation.

5 **REQUEST NO. 57:**

6 All documents you may rely on to support your allegation that Abbott had “no  
7 procompetitive justification for [its] conduct” in monopolizing or attempting to monopolize the  
8 Boosted Market.

9 **RESPONSE TO REQUEST NO. 57:**

10 In addition to their general objections, Plaintiffs object to this request as premature  
11 contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis  
12 prematurely and/or attorney work product. Plaintiffs also object to this request as vague,  
13 ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs  
14 will produce non-privileged, responsive documents in their possession, custody or control that  
15 were not produced by Defendant or other parties in this litigation, to the extent such documents  
16 exist, at an appropriate stage in the litigation.

17 **REQUEST NO. 58:**

18 All documents concerning your allegations, contained in paragraphs 68 through 71 and  
19 elsewhere throughout your Complaint, that Abbott has monopolized the “Boosting Market,” as  
20 defined in your Complaint.



**RESPONSE TO REQUEST NO. 58:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate stage in the litigation.

**REQUEST NO. 59:**

All documents you may rely on to support your allegations that “Abbott has willfully enhanced and maintained its monopoly power in the Boosting Market through exclusionary and anticompetitive means.”

**RESPONSE TO REQUEST NO. 59:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate stage in the litigation.

**REQUEST NO. 60:**

All documents you may rely on to support your allegation that “Abbott induced competitors in the Boosted Market to rely upon Norvir.”

**RESPONSE TO REQUEST NO. 60:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate stage in the litigation.

**REQUEST NO. 61:**

All documents you may rely on to support your allegations that “Abbott deceptively induced rivals to forego developmental alternatives and instead standardize around the use of Norvir for boosting purposes.”

**RESPONSE TO REQUEST NO. 61:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents in their possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist, at an appropriate stage in the litigation.

**REQUEST NO. 62:**

All documents you may rely on to support your allegation that Abbott had “no procompetitive justification for [its] conduct” in monopolizing or attempting to monopolize the Boosting Market.

**RESPONSE TO REQUEST NO. 62:**

In addition to their general objections, Plaintiffs object to this request as premature contention discovery. Plaintiffs further object to this request to the extent it seeks expert analysis prematurely and/or attorney work product. Plaintiffs also object to this request as vague, ambiguous, and overbroad. Subject to and without waiving the foregoing objections, Plaintiffs will produce non-privileged, responsive documents at an appropriate stage in the litigation.

**REQUEST NO. 63:**

All documents relating to the Abbott Patents, including but not limited to documents that discuss the scope, meaning, and/or interpretation of such patents or any claims therein.

**RESPONSE TO REQUEST NO. 63:**

In addition to their general objections, Plaintiffs object to this request on the grounds that it is vague, ambiguous, overbroad, compound, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this request on the grounds that it calls for privileged attorney-client communications and attorney work product. Plaintiffs also object to this request on the grounds that it prematurely calls for expert analysis and/or testimony. Subject to and without waiving the foregoing objections, Plaintiffs will produce responsive, non-privileged documents in Plaintiffs' possession, custody or control that were not produced by Defendant or other parties in this litigation, to the extent such documents exist.

Dated: April 7, 2008

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